

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HECTOR SOLANO,

Plaintiff,

v.

K. FLORES, et al.,

Defendants.

No. C 15-05509 BLF (PR)

**ORDER DISMISSING DEFENDANT  
CAPT. K. ALLEN**

Plaintiff, a state prisoner currently incarcerated at Salinas Valley State Prison (“SVSP”) in Soledad, filed this *pro se* civil rights action pursuant to 42 U.S.C. § 1983 against SVSP officials. On March 3, 2016, the Court issued an order of service upon SVSP Defendants. (Docket No. 6.) On March 17, 2016, Litigation Coordinator G. Lopez sent a letter to the Court indicating that Defendant Capt. K. Allen has never worked at SVSP. (Docket No. 14.) On March 24, 2016, the Court directed Plaintiff to file a notice providing the Court with an accurate and current addresses for Defendant Capt. K. Allen such that the Marshal is able to effect service. (Docket No. 16.) Plaintiff was informed that if he failed to provide the Court with the information requested within thirty days, Plaintiff’s claims against this Defendant would be dismissed without prejudice pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. (*Id.*) Plaintiff has failed to provide


1 the requested information and has had no communication with the Court since the Court's  
2 order. Accordingly, Defendant Capt. K. Allen has not been served.

3 Although a plaintiff who is incarcerated and proceeding *in forma pauperis* may  
4 rely on service by the Marshal, such plaintiff "may not remain silent and do nothing to  
5 effectuate such service"; rather, "[a]t a minimum, a plaintiff should request service upon  
6 the appropriate defendant and attempt to remedy any apparent defects of which [he] has  
7 knowledge." *Rochon v. Dawson*, 828 F.2d 1107, 1110 (5th Cir. 1987). Here, Plaintiff's  
8 complaint has been pending for over 90 days, and thus, absent a showing of "good  
9 cause," is subject to dismissal without prejudice. *See* Fed. R. Civ. P. 4(m).

10 Accordingly, Plaintiff's claim against Defendant Capt. K. Allen is **DISMISSED**  
11 without prejudice. The Clerk shall terminate Defendant Capt. K. Allen and remove this  
12 Defendant them from the Docket.

13 **IT IS SO ORDERED.**

14 DATED: June 6, 2016

  
BETH LABSON FREEMAN  
United States District Judge